

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 04, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NICHOLAS CHRISTOPHER BOYD,

a.k.a. Nicholas Michael Brinkley,

Plaintiff,

v.

CORRECTIONS OFFICER IRWIN,

CORRECTIONS OFFICER LESLIE, and

CORRECTIONS OFFICER VILLAREAL,

Defendants.

NO. 2:19-CV-00395-SAB

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

On January 24, 2020, the Court was notified that Plaintiff was no longer in DOC custody. ECF No. 13. He failed to provide the Court with an updated address. On March 30, 2020, the Court sent out a Scheduling Conference Notice and it was returned undeliverable. ECF No. 23.

A telephonic scheduling conference is set for May 12, 2020. In anticipation of the conference, Defendants' counsel and Plaintiff conferred by telephone on April 28, 2020. Defendants report that at that time Plaintiff was incarcerated in Grant County Jail. As agreed to during the telephone conference, Defendants' counsel sent an email to Grant County jail staff attaching the Report and Discovery Plan proposed by Defendants, the Court's Notice Setting Telephonic Scheduling Conference and specific instructions to provide to Plaintiff.

ORDER DISMISSING ACTION WITHOUT PREJUDICE ~ 1

1 Plaintiff was to review the proposed report and notify Defendants by April
2 30, 2020 whether he wanted to stipulate to the language within the proposed
3 Report and Discovery Plan or whether he was going to be filing his own Report
4 and Discovery Plan. Plaintiff failed to notify Defendants' counsel.

5 At this point, it would not be in the interest of justice to hold the telephonic
6 scheduling conference and set the trial date if Plaintiff no longer wishes to
7 prosecute this action. Failing to notify the Court of his address prevents the Court
8 from communicating with Plaintiff and leaves the Court with no other option but to
9 dismiss this action without prejudice. Typically, the Court would issue an Order to
10 Show Cause why the action should not be dismissed for failure to prosecute, but
11 such an Order would be futile since the Court has no current address for Plaintiff to
12 ensure that he will receive the Order.

13 Accordingly, **IT IS ORDERED:**

14 1. The above-captioned case is dismissed, without prejudice, for failure
15 to notify the Court of Plaintiff's current address.

16 2. The May 12, 2020 telephonic scheduling conference is **stricken**.

17 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
18 this Order, provide copies to counsel, and close the file.

19 **DATED** this 4th day of May 2020.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive style and is positioned above the printed name of the judge.

25 Stanley A. Bastian
26 United States District Judge
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